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September 15, 2017

Sent Via Email

Susan L. Carlson, Clerk
Washington State Supreme Court
Post Office Box 40929
Olympia, WA 98504-0929

Re: Proposed ER 413

Dear Ms. Carlson:

Along with my colleagues, I write in support of the proposed Rule of Evidence 413. The four of us are former prosecutors now representing plaintiffs in civil actions. In both contexts, we have experienced the improper introduction of immigration status by opposing counsel. ER 413 will help correct those injustices.

ER 413 reflects our State's commitment to equal and fair justice under the law. Adoption of this Rule will provide meaningful assurance to our State's sizable immigrant population that participation in our legal system need not jeopardize their liberty or invite discrimination or cruelty.

Like many others, I myself am the child of a foreign-born father. How puzzling to think that if my father were injured in a car accident, unlawfully terminated from his job, or the victim of a crime, that his immigration status should become fair game for a hunting lawyer? If relevant (somehow) ER 413 provides ample mechanisms through which an adverse party may convince a court that the inquiry is germane. Where it is not, the inquiry serves no proper purpose.

During our time as prosecutors, questions surrounding the immigration status of victims and witnesses would arise—sometimes at the periphery, sometimes not. Absent the protections found in proposed Rule 413, such victims and witnesses express legitimate fear that by reporting acts of violence or other crimes, their own immigration status will be examined and either used to intimidate them (*e.g.*, in a defense interview), or used at trial to demean or call into question their veracity or character before the jury. The collateral consequences they might face as a result of such an inquiry in a public proceeding are real and almost never justified by any search for relevant evidence.

September 15, 2017

At our law firm, one of the nation's largest plaintiff-side firms, we represent persons seeking to hold both tortfeasors and many of the world's most powerful corporations accountable for their violations of law. Suffice it to say that when, for example, a bank, car company, pharmaceutical company, tech giant, or tortfeasor violates the law, the consumers, employees, whistleblowers, and injured persons with immigration concerns that we represent are often fearful of vindicating their rights despite the plain irrelevance of their immigration status.

ER 413 should become a model evidence rule for other states. With all due respect to the concerns expressed by the Superior Court Judges' Association, we trust that the Washington trial courts are fully capable of implementing this Rule as drafted.

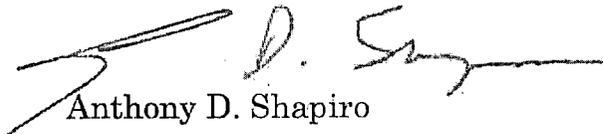
For these reasons, we respectfully urge the adoption of the proposed rule.

Sincerely,

HAGENS BERMAN SOBOL SHAPIRO LLP



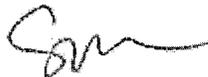
Shayne C. Stevenson



Anthony D. Shapiro



Thomas E. Loeser



Shelby R. Smith

Tracy, Mary

From: OFFICE RECEPTIONIST, CLERK
Sent: Friday, September 15, 2017 2:16 PM
To: Tracy, Mary
Subject: FW: Comment on Proposed Rule of Evidence 413
Attachments: Letter in Support of ER 413 9.15.17 (FINAL).pdf

Forwarding.

From: Shayne Stevenson [mailto:shaynes@hbsslaw.com]
Sent: Friday, September 15, 2017 2:07 PM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Subject: Comment on Proposed Rule of Evidence 413

Dear Ms. Carlson,

Please see the attached letter in support of the adoption of Rule of Evidence 413.

Regards,
Shayne

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